IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NOS: 22498 of 2002 and 5999 of 2003

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WRIT PETITION NO : 22498 of 2002:

Between:

1 Reddipallle Satyanarayana S/o Reddipalle Sanyasi Rao,

Aged about 47 years, R/o Reddipalle Village, Padmanabham Mandal,
Visakhapatnam District

2 Reddipalle Ramesh, S/o Reddipalle Sanyasi Rao, Aged about 37 years,

R/o Reddipalle Village, Padmanabham Mandal,
Visakhapatnam District

3 Reddipalle Srinivasa Rao S/o Reddipalle Sanyasi Rao,

Aged about 42 years, R/o Reddipalle Village, Padmanabham Mandal,
Visakhapatnam District

..... PETITIONERS

AND

1. The Mandal Revenue Officer, Padmanabham Mandal,

Visakhapatnam District.
2 The Revenue Divisional Officer, Visakhapatnam
3 The District Collector, Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ order or direction and direct

the respondents to act in accordance with law and forbear from interfering with the possession and enjoyment of the petitioners in respect of the land consisting of trees admeasuring Acs.14-00 situated in Survey Nos. 19/8 & 9, 20/5, 6 &7 and 26/2, 3,4 & 5 of Buddivalasa Agraharam Village, H/o B. Tallavalasa, Padmanabham Mandal, Visakhapatnam District without following the procedure of land and without giving opportunity tot he petitioners to contest the proposed action.

Counsel for the Petitioners: MR.V.VENKATARAMANA

Counsel for the Respondents: GP FOR ASSIGNMENT

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WRIT PETITION NO : 5999 of 2003:

Between:

1 Palavalasa Padmanabham, S/o Late paradesi, aged 65 years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

2 Mandala Sanyasi, S/o Late China Appadu, aged about 70years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

3 Sariki Padmanabhudu, S/o Late Sanyasi, aged 71 years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

4 Mullu Surappadu, S/o late Appalaswamy, aged about 65 years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

5 Mandala Atchanna, S/o late Sanyasi, aged about 64 years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

6 Mandala Ramu Naidu S/o late Appadu, aged about 43 years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

7 Mandala Paidiah, S/o late Appadu, aged about 73 years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

8 Sariki Appanna S/o late Sanyasi, aged about 53 years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

9 Revalla Simhadri S/o late Appalaswamy, aged about 52 years,
R/o Buddivalasa Agraharam., B.Rallavalasa Post.,
Padmanabham Mandal., Visakhapatnam District.

..... PETITIONERS

AND

1 The State of A.P., represented by its Secretary, Revenue Department.,

Secretariat, Hyderabad.

2 The District Collector,Visakhapatnam., Visakhapatnam District.

3 The Revenue Divisional Officer, Visakhapatnam., Visakhapatnam District.

4 Mandal Revenue Officer, Padmanabham Mandal., Padmanabham.,
Visakhapatnam District.

5 Reddipalli Satyanarayana, S/o Sanyasi Rao, aged about 60 years,
Reddypalli Village.,Visakhapatnam Dist.,

6 Reddipalli Sathibabu S/o Sanyasi Rao, aged about 40 years,
Reddypalli Village.,Visakhapatnam Dist.,

7 Reddipalli Srinivasa Rao S/o Sanyasi Rao, aged about 37 years,
Reddypalli Village.,Visakhapatnam Dist.,

8 Reddipalli Ramesham S/o Sanyasi Rao, aged about 30 years,
Reddypalli Village.,Visakhapatnam Dist.,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the intending action of the respondents in the light of W.P.No.22498 of 2002 dated 12-11-2002 in trying to dispossess the petitioners herein from their peaceful possession and enjoyment of the D Form Patta Lands in respect of trees and admeasuring total extent of Ac.14.00 situated in Survey Nos. 20/6, 20/7, 19/3, 18/6, 19/6, 19/1, 21/18, 24/6, 19/9, 20/8, 19/8 and 18/6 of Buddivalasa Agraharam, H/o B.Tallavalasa, Padmanabham Mandal, Visakhapatnam District, as bad, illegal, arbitrary, ultra virus and without any notice and also against to the provisions of B.S.O.15 and A.P. Assigned Lands (Prohibition and Transfers) Act 1977 (Act 9 of 1977) and consequently to direct the respondents to act in accordance with law and forbear from interfering with the possession and enjoyment.

Counsel for the Petitioners: M/SC.KODANDA RAM
Counsel for the Respondent Nos. 1 to 4: GP FOR REVENUE
Counsel for the Respondent Nos.5 to 8: ----

The Court at the stage of admission made the following COMON ORDER:

The petitioners in WP.No.22498 of 2002 claims to be purchasers of the land to an extent of Acs.9-65 cents in Survey Nos.26/2,3,4 & 5 of Buddivalasa Village, H/o B.Tallavasasa Village, Padmanabham Mandal, Visakhapatnam District, under an unregistered sale deed dated 04-09-1995 from the original pattedars M.Appalanarayana and others and that they are in possession of the said land and cultivating the same by raising mango trees, cashew nut and teak plantation. While so, the vendor of the petitioners viz., Mr. M.Appalanarayana and his family members filed two suits against them in O.S.Nos.376 of 1999 and 378 of 1999 in respect of two extents of land seeking permanent injunction restraining them from interfering with their possession and enjoyment over the said lands. On contest, the learned

Junior Civil Judge, Bheemunipatnam dismissed the applications filed by the vendors of the petitioners for temporary injunction. Against the said orders, their vendors carried the matter in appeal in C.M.A.Nos.39 and 40 of 2000 before the IV.Additional District Judge, Visakhapatnam. The said C.M.As. are still pending.

It is also the case of the petitioners that the first respondent-Mandal Revenue Officer, Padmanabham, Visakhapatnam, came to their lands on 05-11-2002 and attempted to dispossess them on the ground that they have purchased assigned lands and that their vendors were also purchasers of the assigned lands, which is in violation of the A.P. Assigned Lands Prohibition of Transfer Act, 1977. In view of the same, the petitioners filed WP.No.22498 of 2002 stating that without following the due procedure, they shall not be dispossessed from the suit schedule property. The said writ petition was disposed of by this Court at the admission stage on 12-11-2002 directing the first respondent not to interfere with the possession and enjoyment of the petitioners over the land in question and if the land in question is covered by the provisions of Act 9 of 1977, necessary procedure has to be followed before taking possession of the property.

The petitioners in WP.No.5999 of 2003 are claiming to be the “D” form patta holders of various extents of lands assigned to them and they are in possession of the said lands. When one R.Sanyasi Rao and his sons, who are respondent Nos.5 to 8 herein, interfered with their possession, they made an application to the Superintendent of Police, Visakhapatnam, on 10-03-2003. On enquiry, it came to know that the father of respondents 5 to 8 herein has been claiming that he purchased the said lands under an unregistered sale deed from a third party viz., M.Sanyasi Rao. Neither respondents 5 to 8 nor their vendor have got any manner of right over the properties in question.

The further case of the petitioners is that they are not parties to WP.No.22498 of 2002 filed by the respondents 5 to 8 and that by misleading the Court, respondents 5 to 8 obtained orders in the said writ petition to maintain their possession and under the garb of said order, they are trying to dispossess the petitioners from the suit schedule property on the ground that they purchased the said lands under an unregistered sale deed. When the petitioners in this regard gave complaint to the Superintendent of Police, Visakhapatnam, no action has been taken since there is a Court order in favour of respondents 5 to 8.

When WP.No.5999 of 2003 was dismissed as not maintainable, the petitioners therein carried the matter in appeal in W.A.No.831 of 2003 and the said writ appeal was allowed setting aside the dismissal order with a direction to dispose of the writ petition in accordance with law and to place the record in WP.No.22498 of 2002 before the learned Single Judge. In view of the same, WP.No.5999 of 2003 is posted before this Court for admission along with the record in WP.No.22498 of 2002 for appropriate orders.

Heard the learned counsel for the petitioners as well as the learned Government Pleaders for Assignment and Revenue appearing for respondents.

The petitioners in WP.No.5999 of 2003 are claiming to be the “D” form patta holders. The petitioners in WP.No.22498 of 2002 are claiming to be purchasers under an unregistered sale deed. The vendors of the petitioners filed suits against them and failed to obtain temporary injunction orders.

The learned counsel for the petitioners in WP.No.5999 of 2003 placed before this Court an order in C.M.A.No.40 of 2000 passed by the IV Additional District Judge, Visakhapatnam, which was filed against the orders passed in I.A.No.1854 of 1999 in O.S.No.376 of 1999, dated 21-09-2000, and the order in C.M.A.No.39 of 2000, which was filed against the orders passed in I.A.No.1858 of 1999, dated 25-09-2000 in O.S.No.368 of 1999. On perusal, it is noticed that the said appeals were allowed in favour of Mr.M.Appalanarayana and M.Chandramma granting temporary injunction against the petitioners in WP.No.22498 of 2002. In view of the said fact, the order passed in WP.No.22498 of 2002 is hereby recalled and both the writ petitions are disposed of by this common order.

The petitioners in WP.No.5999 of 2003, who are not parties to the suits in O.S.No.376 and 378 of 1999, shall now make an application to the Mandal Revenue Officer, Padmanabham, Visakhapatnam, to maintain their possession under D-form pattas within three weeks from the date of receipt of this order. As and when such an application is filed by the petitioners, the Mandal Revenue Officer, Padmanabham, Visakhapatnam, has to decide whether the plaintiffs in the suits have purchased the lands forming part of the patta lands of the petitioners in WP.No.5999 of 2003. The petitioners in WP.No.22498 of 2003 are claiming title over the property in question

under an unregistered sale deed from M.Appalanarayana and others. If so, such sale transaction is hit by the provisions of Act 9 of 1977, on making such enquiry, the Mandal Revenue Officer has to pass necessary orders after giving due opportunity to the petitioners as well as the plaintiffs in the above suits. Status quo obtaining as on today with regard to possession shall be maintained till the Mandal Revenue Officer passes such an order within a period of three months from the date of the petitioners filing such an application.

Both the writ petitions are accordingly disposed of. No costs.

20th SEPTEMBER, 2004.

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To

1 The Secretary, State of A.P., Revenue Department.,

Secretariat, Hyderabad.

2 The District Collector,Visakhapatnam., Visakhapatnam District.

3 The Revenue Divisional Officer, Visakhapatnam., Visakhapatnam District.

4 The Mandal Revenue Officer, Padmanabham Mandal., Padmanabham., Visakhapatnam District.

5 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad. (O.U.T.)

6 Two CCs to the Government Pleader for Assignment, High Court of A.P., Hyderabad.(O.U.T.)

7 Two CD copies.